

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 9

In the Matter of :

Apodaca and Son Plating, Company
4349 Baldwin Ave.
El Monte, CA. 91731

Mr. Salvador Apodaca
1466 Loma Sola Street
Upland, CA. 91718

Mr. Samual Huang
4652 West Center Blvd.
Englewood, CA 90304

EPA ADMINISTRATIVE
ORDER NO. 90-18

Respondents

Proceeding under Section 106 of the
Comprehensive Environmental Response,
Compensation and Liability Act of 1980,
as amended by the Superfund Amendments
and Reauthorization Act of 1986,
(42 U.S.C. Section 9606)

I. Jurisdiction

A. This Order is issued to Apodaca and Son Plating, Company, Mr. Salvador Apodaca, and Mr. Samual Huang ("Respondents") pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("CERCLA"), 42 U.S.C. 9601, et seq., by authority delegated to the Administrator of the United States Environmental Protection Agency ("EPA"), and redelegated to the EPA Regions.

B. The Director of the Hazardous Waste Management Division, EPA Region 9, has determined that there may be an imminent and substantial endangerment to the public health or welfare or the environment because of the release or threatened

1 release of hazardous substances from the Apodaca and Son Plating,
2 Company, 4349 Baldwin Avenue, El Monte, Los Angeles County,
3 California (Hereinafter referred to as "the Site"). Located
4 within the Site is the Apodaca and Son Plating Company facility.
5 (Hereinafter referred to as "the Facility").

6 C. The EPA has designated an On-Scene Coordinator ("OSC")
7 for the Site, pursuant to 40 C.F.R. Part 300, published at 55
8 Fed. Reg. 8813 (March 8, 1990).

9 II. Findings of Fact

10 A. BACKGROUND

11 1. The Site, located at 4349 Baldwin Avenue, El
12 Monte, California, occupies approximately 2,700 square feet. The
13 Site consists of a plating facility and a large outside storage
14 area. A security fence surrounds the property.

15 2. The Site lies within a commercial and
16 manufacturing district. A sewing factory which employees ap-
17 proximately 300 people lies 300 feet south of the Site and
18 another manufacturing facility lies to the north. A local
19 elementary school lies approximately one quarter mile northeast
20 of the Site.

21 3. In 1980, Mr. Salvador Apodaca leased the Site from
22 El Monte Industrial Properties and established Apodaca and Son
23 Plating, Company. (Hereinafter referred to as "the Company").
24 The Company specialized in zinc plating of electrical components.
25 The operation used several strong mineral acids and cyanide solu-
26 tions. The main plating line consists of twenty 2000-3000 gallon
27 vats containing strong oxidizing acids (chromic and nitric
28 acids), caustic cyanide solutions (zinc cyanide), metal con-

1 taminated (zinc, cadmium, chromium) wastewater, and strong
2 alkaline solutions (pH > 12.5). A smaller hand plating line is
3 located in the western portion of the Facility and consists of
4 approximately thirty 500-1000 gallon vats containing various
5 plating solutions. A wastewater treatment system and underground
6 clarifier was constructed to process wastewater prior to dis-
7 charge into the local sewer system.

8 4. In 1986, Mr. Samuel Huang purchased the property from
9 El Monte Industrial Properties. Mr. Huang continued the lease
10 agreement with Mr. Apodaca pursuant to which Mr. Apodaca
11 continued his operations.

12 **B. ENFORCEMENT HISTORY**

13 1. In 1984, EPA, in conjunction with the Los Angeles
14 County Sanitation Department, began investigating several
15 industries in El Monte for possible illegal hazardous waste
16 discharges into the sewer system. Effluent sampling from the
17 Company revealed high concentrations of zinc and cyanide being
18 illegally discharged into the system. In May, 1988, Mr. Apodaca
19 was convicted in the United States District Court, Central
20 District of California of ten (10) counts of violating the
21 Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq.,
22 for the illegal discharge of hazardous waste into the sewer
23 system. On October 3, 1988, Mr. Apodaca was fined \$50,000, and
24 sentenced to 500 hours of community service and 5 years
25 probation.

26 2. In April of 1989, the Los Angeles County Health
27 Department (LACHD) received several anonymous complaints that
28 Apodaca and Son Plating was illegally storing hazardous waste on

1 the Site. On November 27, 1989, the LACHD inspected the Site.
2 The inspection revealed several large bins and drums of metal
3 sludge and dry contaminated filter cake. LACHD Order Number
4 00328 was issued to Mr. Salvador Apodaca on November 27, 1989.
5 This Order required Mr. Salvador Apodaca to discontinue the
6 illegal storage of hazardous waste on the Site, properly
7 segregate and containerize the waste, and remove all hazardous
8 wastes from the Site within thirty days.

9 4. On December 14, 1989, Mr. Salvador Apodaca removed
10 approximately twenty yards out of the estimated sixty yards of
11 hazardous waste. On March 24, 1990, LACHD returned to the Site
12 and noted that Mr. Apodaca had ceased operations but that
13 hazardous waste and substances remained on the Site.

14 5. On August 28, 1990, On-Scene-Coordinator (OSC)
15 Robert Bornstein was informed by an anonymous caller that the
16 Site may pose an imminent and substantial environmental threat
17 due to the potential releases of hazardous substances from the
18 Facility. OSC Bornstein contacted LACHD and El Monte Fire
19 Department concerning the Site. OSC Bornstein notified both Mr.
20 Salvador Apodaca, on August 30, 1990, and Mr. Samuel Huang, on
21 August 31, 1990, by telephone that EPA was planning to conduct an
22 inspection at both the Site and the Facility. Mr. Huang informed
23 OSC Bornstein that he had been seeking a contractor to clean-up
24 the Site. In addition, Mr. Huang stated that he had hired a
25 contractor who removed a reacting vat of hydrochloric acid.

26 6. On September 5, 1990, OSC Bornstein and members of
27 EPA's Technical Assistant Team (TAT), LACHD, and the El Monte
28 Fire Department conducted a joint inspection at the Site. The

1 inspection revealed several large containers outside the Facility
2 containing metal sludge and contaminated filter cake. In
3 addition, several 55-gallon drums of acids, cyanides and
4 alkalines were found to be haphazardly stored in the yard.
5 Inside the Facility, there remained over forty open vats
6 containing strong acids ($\text{pH} < 2$), caustic cyanide solutions ($\text{pH} >$
7 12.5), metal contaminated solutions (Zn, Cd, Cr), oxidizing acids
8 (Chromic Acid, Nitric Acid), and strong alkaline solutions ($\text{pH} >$
9 12.5). The Facility's ceiling contained several holes which
10 might allow rain water to fall into the open vats causing the
11 strong acid solutions to fume.

12 C. ENDANGERMENT

13 1. Several contamination threats were identified by
14 EPA during its Site assessment. Seven samples were collected for
15 both hazard classification and analytical analysis. Two samples
16 were determined to be strong alkalines ($\text{pH} > 12.5$), two samples
17 were classified as oxidizing acids, one sample was determined to
18 contained cyanide, and two sludge samples (one acidic, the other
19 caustic) contained elevated concentrations of zinc, cadmium and
20 chromium.

21 2. Material Safety Data Sheets obtained from the
22 Facility indicate that the Facility used and stored several
23 strong acids such as nitric, sulfuric, chromic and hydrofluoric
24 ($\text{pH} < 2$). In addition, the Facility used and stored large
25 quantities of sodium hydroxide, sodium hypochlorate and ammonium
26 hydroxide ($\text{pH} > 14$). The accidental ingestion or dermal exposure
27 to these highly corrosive solutions could cause severe health
28 problems (burning and skin irritations). Large quantities of

1 filter cake contaminated with heavy metals (zinc, cadmium and
2 chromium) are also stored on the Site. Exposure to cadmium and
3 zinc dust or fumes is known to cause severe kidney and
4 respiratory problems. The ingestion of hexavalent chromium is a
5 known human carcinogen. Organic solvents such as ortho-chloro
6 benzaldehyde, a suspected human carcinogen, were also employed at
7 the Facility.

8 3. Several of the vats containing highly corrosive
9 compounds are in poor condition. A release and/or mixture of
10 these substances may result in the creation of several toxic
11 gases such as hydrogen cyanide, or corrosive vapors. Toxic fumes
12 generated by a release may adversely effect the neighboring
13 population, which includes an El Monte elementary school.

14 4. The accidental release of chemicals on the Site
15 into the sewer system could adversely effect the El Monte sewer
16 treatment facility and contaminate both subsurface and surface
17 water.

18 III. Conclusions of Law

19 A. The respondents are "persons" as defined in Section
20 101(21) of CERCLA, 42 U.S.C. Section 9601(21).

21 B. The property located at 4349 Baldwin Avenue, El Monte,
22 California is a "facility" as defined in Section 101(9) of
23 CERCLA, 42 U.S.C. Section 9601(9).

24 C. The corrosive metallic solutions, caustic cyanide solu-
25 tions, mineral acids, metallic sludge and filter cake and organic
26 compounds are "hazardous substances" as defined in Section
27 101(14) of CERCLA, 42 U.S.C. Section 9601(14).

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1 D. The presence of hazardous substances on the Site and
2 the potential for those substances to leak, mix, ignite and
3 migrate constitutes a "release" or "threatened release" of
4 hazardous substances into the environment as defined in Section
5 101(22) of CERCLA, 42 U.S.C. Section 9601(22).

6 E. Respondents are "responsible parties" as defined in
7 Section 107(a)(3) of CERCLA, 42 U.S.C. Section 9607(a)(3).

8 **IV. Determinations**

9 Based on the Findings of Fact and Conclusions of Law, the
10 Director, Hazardous Waste Management Division, EPA Region 9, has
11 made the following determinations:

12 A. The release or threatened release of hazardous sub-
13 stances and pollutants or contaminants from the Site may present
14 an imminent and substantial endangerment to the public health,
15 welfare, and the environment.

16 B. In order to prevent or mitigate immediate and sig-
17 nificant risk of harm to human health and the environment, it is
18 necessary that actions be taken immediately to contain and
19 prevent the release and potential release of hazardous sub-
20 stances, pollutants or contaminants from the Site.

21 C. The removal measures required by this Order are consis-
22 tent with the National Contingency Plan, 40 Code of Federal
23 Regulations, Part 300.

24 **V. Order**

25 Based upon the Findings of Fact, Conclusions of Law and
26 Determinations, EPA hereby orders the Respondents to implement
27 the following measures under the direction of EPA's On-Scene
28 Coordinator.

1 A. Within seven (7) calendar days of the effective date of
2 this Order, Respondents shall submit in writing, for EPA, review
3 and approval, a Site Health and Safety Plan. The Site Health and
4 Safety Plan must conform to the requirements outlined in the
5 Standard Operating Safety Guide, U.S. EPA, Office of Emergency
6 and Remedial Response Support Division, Edison, New Jersey,
7 November 1984, updated July 1988. The plan should include provi-
8 sions addressing both on-Site work and off-Site emergency contin-
9 gency plans in the event of a chemical release. All work con-
10 ducted pursuant to this Order shall conform with the approved
11 Site Health Safety Plan and all applicable Occupational Safety
12 and Health Administration (OSHA) regulations. If EPA provides
13 comments on the Site Health Safety Plan, Respondents shall incor-
14 porate all of EPA's comments and resubmit the plan within five
15 (5) calendar days of receiving any such EPA comments.

16 B. Within fourteen (14) days of the effective date of this
17 Order, the Respondents must provide in writing for agency review
18 and approval, a Site Removal, Stabilization, and Sampling Plan
19 and Schedule ("Workplan"). The Workplan shall include provisions
20 for the following activities to be completed within the
21 timeframes set forth:

22 1. Within thirty (30) calendar days of the
23 effective date of this Order, all hazardous
24 liquids within the vats must be removed to
EPA approved hazardous waste storage,
treatment, disposal, or recycling facilities;

25 2. Within sixty (60) calendar days of the
26 effective date of this Order, all remaining
27 on-site hazardous substances including but
not limited to the hazardous metal sludge,
filter cake, drums, laboratory reagents, and
28 containers must be removed to an EPA approved
hazardous waste storage, treatment, disposal,

or recycling facilities;

3. Within ninety (90) calendar days of the effective date of this Order, Respondents shall decontaminate the Facility's floors, berms and infrastructure.

C. If EPA provides comments on the Workplan, Respondents shall incorporate all of EPA's comments and resubmit the plan within five (5) calendar days of receiving any such EPA comments. Upon EPA approval of the Workplan, Respondents shall commence implementation. The EPA approved Workplan shall be incorporated into this Order and shall be in accordance with appropriate EPA guidances and those directed for use by the OSC.

D. Within twenty-one (21) calendar days of the effective date of this Order, Respondents must submit for EPA review and approval a Post Sampling Workplan to ensure that the Site has been adequately remediated. The Post Sampling Workplan shall include provisions for the following activities to be completed within the timeframes set forth:

1. Within one-hundred and twenty (120) calendar days, Respondents shall conduct sampling within the subsurface clarifier and collect subsurface soil sampling along the sides of the clarifier and treatment/sewer system.

2. Within one-hundred and twenty-five (125) calendar days, the Respondents shall conduct soil sampling beneath stained pavement and concrete locations to determine the extent of the contamination.

All sampling and analysis shall be consistent with the "Removal Program Quality Assurance/Quality Control Interim Guidance: Sampling, QA/QC Plan and Data Validation," EPA OSWER Directive 9360.4-01, dated February 2, 1989.

1 E. At the conclusion of the post-removal sampling
2 activities, Respondents shall prepare a final report summarizing
3 the work conducted pursuant to this Order. The final report
4 shall contain copies of all hazardous waste manifests, notices of
5 sales, and analytical data for the post-removal sampling. The
6 final report shall be submitted to EPA no later than one hundred
7 and seventy-five (175) calendar days from the effective date of
8 this Order.

9 F. Respondents shall provide notice to EPA forty-eight
10 (48) hours prior to performance of any On-Site work.

11 VI. Compliance With Other Laws

12 A. Respondents shall comply with all federal, state and
13 local laws and regulations in carrying out the terms of this
14 Order. All hazardous substances removed from the facility must be
15 handled in accordance with the Resource Conservation and Recovery
16 Act of 1976, 42 U.S.C. Section 6921, et seq., the regulations
17 promulgated under that Act, and Section 121(d)(3) of CERCLA, 42
18 U.S.C. Section 9621(d)(3).

19 VII. On-Scene Coordinator

20 EPA has appointed an On-Scene Coordinator (OSC) for the Site
21 who has the authority vested in the On-Scene Coordinator by 40
22 C.F.R. Part 300, et seq. The On-Scene Coordinator for the Site
23 for the purposes of this Order is:

24 Robert Bornstein
25 United States Environmental Protection Agency, Region 9
26 1235 Mission Street
27 Mail Code H-8-3
28 San Francisco, California 94103
(415) 744-1026

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1 **VIII. Submittals**

2 A. All submittals and notifications to EPA required by
3 this Order or any approved proposal under this Order concerning
4 Apodaca and Son Plating, Company, et al., Order number 90-18,
5 shall be made to:

6 Jerry Clifford
7 Deputy Director, Superfund
8 United States Environmental Protection Agency, Region 9
9 1235 Mission Street
10 Mail Code H-5
11 San Francisco, California 94103

12 B. Copies of all submittals and notifications shall be
13 sent to the On-Scene Coordinator.

14 C. All approvals and decisions of EPA made regarding the
15 submittals and modifications shall be communicated to Respondents
16 by the Deputy Director, Superfund or his designee. No informal
17 advice, guidance, suggestions, or comments by EPA regarding
18 reports, plans, specifications, schedules, or any other matter
19 will relieve Respondents of their obligation to obtain formal ap-
20 provals as required by this Order.

21 **IX. Access**

22 A. Respondents shall provide EPA employees and other
23 representatives with complete access to the facility at all
24 times. Nothing in this Order limits any access rights that EPA or
25 other agencies may have pursuant to law.

26 **X. Endangerment During Implementation**

27 A. The OSC may determine that acts or circumstances
28 (whether related to or unrelated to this Order) may endanger
human health, welfare or the environment and may order the
Respondents to stop further implementation of this Order until

1 the endangerment is abated.

2 **XI. Government Not Liable**

3 A. The United States Government and its employees and
4 other representatives shall not be liable for any injuries or
5 damages to persons or property resulting from the acts or
6 omissions of Respondents, their employees or other
7 representatives caused by carrying out this Order. For the
8 purposes of this Order, the United States Government is not a
9 party to any contract with the Respondents.

10 **XII. Noncompliance**

11 A. A willful violation or failure or refusal to comply
12 with this Order may subject Respondents to a civil penalty of up
13 to \$25,000 per day in which the violation occurs or failure to
14 comply continues, pursuant to the provisions of Section 106(b)(1)
15 of CERCLA, 42 U.S.C. Section 9606(b)(1). Failure to comply with
16 this Order without sufficient cause may also subject Respondents
17 to punitive damages of up to three times the total costs incurred
18 by the United States for site response pursuant to Section
19 107(c)(3) of CERCLA, 42 U.S.C. Section 9607(c)(3).

20 B. EPA may take over the response action at any time if
21 EPA determines that Respondents are not taking appropriate ac-
22 tion. EPA may order additional actions it deems necessary to
23 protect public health, welfare, or the environment.

24 **XIII. Opportunity to Confer**

25 A. Respondents may request a conference with the Deputy
26 Director, Superfund, EPA Region 9, or his staff to discuss the
27 provisions of this Order. At any conference held pursuant to
28 Respondents' request, Respondents may appear in person or by

1 counsel or other representatives for the purpose of presenting
2 any objections, defenses or contentions which Respondents may
3 have regarding this Order. If Respondents desire such a
4 conference, Respondents must make a request orally within 24
5 hours of receipt of this Order, and confirm the request in
6 writing immediately. A conference does not alter the effective
7 date of the Order.

8 **XIV. Parties Bound**

9 A. This Order shall apply to and is binding upon the
10 Respondents, their officers, directors, agents, employees,
11 contractors, successors, and assigns.

12 **XV. Notice of Intent to Comply**

13 A. Within 24 hours of receipt of this Order, Respondents
14 shall orally inform EPA of their intent to comply with the terms
15 of this Order. The oral notice shall be confirmed within two (2)
16 days by written notice to the Director. Failure to punctually
17 notify EPA of the Respondents' intent to fully comply will be
18 construed by EPA as a refusal to comply.

19 **XVI. Notice to State**

20 A. Notice of the issuance of this Order has been given to
21 the State of California and Los Angeles County. EPA will consult
22 with the California Department of Health Services and the Los An-
23 geles County Health Department and Sanitation Department, as ap-
24 propriate.

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1 XVII. Effective Date

2 A. Notwithstanding any conferences requested pursuant to
3 the provisions of this Order, this Order is effective within
4 three (3) days of the date of signature by the Director of
5 Hazardous Waste Management Division.

6 IT IS SO ORDERED on this 12th day of September, 1990.

7 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

8
9 by:


10 Jeff Zelikson
Director, Hazardous Waste Management Division
EPA Region 9

11
12 Contacts:

13 Robert Bornstein
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